



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Pwyllgor Deddfwriaeth Rhif 2
Legislation Committee 2**

**Dydd Mercher, 21 Ionawr 2009
Wednesday, 21 January 2009**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Jeff Cuthbert	Llafur Labour
Val Lloyd	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Sandy Mewies	Llafur Labour
Jonathan Morgan	Ceidwadwyr Cymreig Welsh Conservatives
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Janet Ryder	Plaid Cymru (yn dirprwyo ar ran Rhodri Glyn Thomas) The Party of Wales (substitute for Rhodri Glyn Thomas)

Eraill yn bresennol
Others in attendance

John Griffiths	Aelod Cynulliad, Llafur (Y Dirprwy Weinidog dros Sgiliau) Assembly Member, Labour (The Deputy Minister for Skills)
Grace Martins	Llywodraeth Cynulliad Cymru, Gwasanaethau Cyfreithiol Welsh Assembly Government, Legal Services

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Sarah Beasley	Clerc Clerk
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser
Sarah Sargent	Dirprwy Glerc Deputy Clerk
Anne Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

Dechreuodd y cyfarfod am 9.15 a.m.

The meeting began at 9.15 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Val Lloyd:** Good morning, everybody, and welcome to this morning's meeting of Legislation Committee No. 2. We will discuss the Proposed Learning and Skills (Wales) Measure.

[2] I have received an apology from Rhodri Glyn Thomas, and Janet Ryder will be substituting for him throughout this Stage 2 process.

[3] We are not expecting a fire drill this morning, so if the alarm sounds please follow the usher, who will direct you. I am sure that you have already turned off your mobile phones, pagers, BlackBerrys and so on, but, if not, please do that now as they interfere with the

broadcasting equipment.

[4] Headsets are available as we operate through the media of English and Welsh. Channel 1 is for translation, and channel 0 is for amplification. As usual, do not touch the buttons on the microphones as they will come on automatically.

[5] Before we move to item 2, I will run through the arrangements for today, for the record. Members will previously have received a note from the clerks explaining the principle of how Stage 2 works, but I will go through it and tell you how we will be handling the debates in more detail. Members should have before them a copy of the proposed Measure, the marshalled list of amendments and the groupings of the amendments for debate. The marshalled list is the list of all amendments tabled arranged in the order in which the sections appear in the proposed Measure. Schedules will be considered with the relevant sections that introduce them.

[6] For the purposes of our meetings—and note the plural there—the order in which we consider amendments will be as follows: sections 1 to 44, followed by the Schedule; sections 45 to 47; new sections; and finally, as is the custom, the long title.

[7] You will have seen from the groupings list that amendments have been grouped to facilitate debate, but the order in which they are called and proposed for a decision is dictated by the marshalled list. Members will need to follow the two papers, although, to be helpful, I will advise Members when I call them whether they are being called to speak in the debate or to propose their amendments for a decision.

[8] There will be only one debate for each group of amendments, and I will call the proposer of the first amendment in the group, who should speak to and propose their first amendment and speak to the other amendments in that group. I will then call any other Members who have indicated that they wish to speak, including any other proposers of amendments in that group. However, proposers of other amendments in that group should not propose their amendments at that stage. Members who have not proposed an amendment in that group but who wish to speak should indicate that they wish to do so in the usual way. I will call the Minister to speak on each group and, to conclude each debate, I will call the proposer of the first amendment in the group to wind up.

[9] Following the debate on a group of amendments, I will clarify whether the Member who proposed the first amendment still wishes to press for a decision. If not, he or she may seek the agreement of the committee to withdraw it. If it is not withdrawn, I will put a question on the first amendment in the group. I will say that the question is ‘that the amendment be agreed to’. It is my intention that all votes be recorded so that the names of those voting for or against or those abstaining will be recorded in the minutes.

[10] I will call the proposers of other amendments in each group to propose their amendment at the appropriate time and in accordance with the marshalled list. If you do not wish to propose your amendment, you should say so clearly when the amendment is called. For the record, only committee members may propose amendments.

[11] Members will be aware that the only way to debate a section of the proposed Measure is to have tabled an amendment to it. Any sections that do not have amendments tabled to them will be deemed agreed, as will any sections for which any tabled amendments were not agreed to. I will announce which sections have been agreed at the end of the meeting. There will be a further opportunity to table amendments to any sections that are not disposed of today. To be considered at the meeting next week, amendments need to be tabled by 5.30 p.m. today.

[12] You will be pleased to know that that is the end of the introduction and that we will not be doing that at every meeting. Are there any questions before we start the proceedings? I see that there are not.

9.20 a.m.

**Y Mesur Arfaethedig ynghylch Dysgu a Sgiliau (Cymru)—Cyfnod 2: Ystyried Gwelliannau
Proposed Learning and Skills (Wales) Measure - Stage 2: Consideration of Amendments**

Hawlogaeth: Dewisiadau Disgyblion o Gyrsiau Cwricwlwm Lleol—Uchafswm Cyrsiau (Adranau 6 a 24)

Entitlement: Pupil's Choices of Local Curriculum Courses—Maximum Number of Courses (Sections 6 and 24)

[13] **Val Lloyd:** There are two amendments in this group, namely amendments 59 and 60. In this group, the lead amendment is amendment 59, which is on page 1 of the marshalled list. I therefore invite Jenny Randerson to propose and speak to amendment 59, which is grouped with amendment 60.

[14] **Jenny Randerson:** I propose amendment 59.

*Cafodd gwelliannau 59 a 60 eu grwpio ar gyfer y drafodaeth.
Amendments 59 and 60 grouped for debate.*

[15] **Jenny Randerson:** Amendment 59 refers to page 7, section 6(2) of the proposed Measure, and it is linked with amendment 60, which refers to section 24 on page 16. Both amendments relate to omitting reference to a maximum number of courses.

[16] The spur behind this amendment is concern that setting a maximum number of courses could inhibit the more able students. I refer to the Stage 1 report of the Proposed Learning and Skills (Wales) Measure Committee, which refers to this issue in recommendation 11. It says,

[17] ‘we recommend that any regulations setting a maximum number of courses provide sufficient flexibility so as not to restrict pupils who are considered able to follow a more challenging course of study’.

[18] It is fair to say that these amendments go beyond that by removing reference to a maximum.

[19] I have tabled this amendment because, having read the evidence that that committee took, I think that there is justifiable concern that these lines could be used to restrict costs and used by learning institutions to take a sheer pragmatic and practical approach, for reasons of the convenience of timetabling and so on. As many Members will know, I have considerable experience in further education lecturing and, prior to that, in secondary school teaching, and, from those many years of experience, I am well aware of the pressures caused by a very small number of students and pupils being overly ambitious in their choices. Those pressures have always been satisfactorily dealt with through discussion, counselling and advice and also by the sheer time constraints of the timetable. The timetabling for this process will be immensely complex, and the constraints will be considerable. The sheer pressures of time and the inability of students to get from one class to another will limit their ability to be overly ambitious. In my experience, when students persist in their over-ambition, they rapidly learn

that and cut back on their commitments. Therefore, I think that we are underestimating the professional expertise and experience of the education sector in providing advice, and there is no reason why we should set a maximum.

[20] There are, of course, students who would be badly affected by a maximum, because there are students who are well capable of taking in far more learning, education and additional skills than any day-to-day timetable could realistically provide. So, I am concerned about the concept of a maximum, especially as the maximum is not defined in terms that really satisfy me that it could, in any way, take account of the most able pupils. Given the basic thrust of this Measure, which is to improve skills and learning, to improve the options for students, it is contrary to the whole philosophy of this Measure to be setting a maximum.

[21] **Jeff Cuthbert:** I have some sympathy with the principles of Jenny's argument, but I think that she is going too far. During the Stage 1 committee's investigation, the WJEC, for example, said that there was sympathy with prescribing a maximum number of courses, so that no individual demands more than their share of resources. However, it questioned whether it constrains, in any way, our ability to respond to gifted individuals, and I take that point on board.

[22] Should it be passed, the effect of this amendment would be to remove that control entirely in terms of allowing an institution to specify a maximum number and, of course, to remove the issue of a points-based system. I shall resist that approach in terms of an amendment, because it is important that learning institutions have a safeguard so that they are not put in a position where an individual, or a group of individuals, demands a level of resources that could perhaps affect, in a negative way, their ability to respond to other students. So, there needs to be a control over that. However, the conclusion at Stage 1 was that any points system needed to be fair and transparent. This is an issue for implementation and negotiation with learning centres. Any maximum number must be sufficiently flexible so that those gifted students are stretched and are not inhibited in any way. That is the way to go forward. I am confident that guidance—statutory or otherwise—can make it clear that this is not to be used in some way just for the convenience of learning institutions that may not want to provide too many resources. So, I intend not to support this amendment on those grounds.

[23] **Jonathan Morgan:** On amendments 59 and 60, I am happy to support what Jenny Randerson has proposed. With Assembly Measures, there is always a need to balance the requirement to be prescriptive in some cases, in some parts of the Measure, with the need to be flexible in what the Measure is seeking to achieve. There is a need to be flexible in the way in which we would anticipate colleges and schools delivering courses. Setting a maximum, or the requirement for a maximum, effectively removes that level of flexibility. I fully accept the point that Jeff has just made that another balance needs to be struck, in a sense, between what a student can realistically expect and demand, and what an institution is able physically to provide. However, I do not see it as being the role of this Measure, in this instance, to be that prescriptive and say that we would anticipate a maximum being set. At least, with a level of flexibility, you may see a greater degree of innovation. So, I am content to support the amendments that have been proposed by Jenny Randerson.

[24] **Janet Ryder:** I can see the logic of both arguments. We certainly do not want to inhibit, in any way, those children who are exceptionally gifted and have the potential to study at a high level, nor do we want to make such a demand on anyone's resources that everything is sucked up by one particular student. However, if we are going to have a system that will benefit everyone, you have to have a minimum level of study and you would want that to be equally balanced between academic and social vocational studies. To set a maximum on it and to incorporate it in the Measure, at this stage, might be detrimental. I am minded, at the moment, to support the amendment.

9.30 a.m.

[25] **Sandy Mewies:** I am unable to support these amendments, for reasons that Jonathan outlined. There has to be a balance between what pupils want and what a school or college can offer. I am afraid that that balance would be overturned by this; it would result in an invidious position.

[26] **The Deputy Minister for Skills (John Griffiths):** The Government is unable to support amendments 59 and 60. We believe that they are unnecessary. If they were carried, they would allow pupils to study any number of GCSEs and A-levels, which is impractical and, as Jeff said, would have implications for other learners and for the proper provision of education and training by the institutions concerned.

[27] Stating the maximum number of courses does not preclude a learner from studying more; it just does not give them a legal entitlement to study any number of courses. So, they still could study more than the maximum, and that would, obviously, be a matter for individuals and institutions, based on professional expertise and advice.

[28] It is also true to say that the removal of the points system would have a detrimental effect on the policy relating to minimum entitlement and learner choice in this Measure. On the more able learners, Welsh Assembly Government education policy to date has been designed more towards more able learners studying at a higher level at an earlier date, rather than studying more subjects at the same level, which can impose all sorts of practical difficulties for those learners as well as for the institutions concerned.

[29] We will consult on any regulations that we make under this section. However, for the reasons that I have stated, I am unable to support these amendments.

[30] **Val Lloyd:** Thank you, I call on Jenny Randerson to reply.

[31] **Jenny Randerson:** Before I respond, is it possible for us to ask Gwyn, as our legal adviser, for his comments on the Minister's point on the impact of the removal of the points system on the minimum?

[32] **Val Lloyd:** Yes, that would be in order.

[33] **Mr Griffiths:** After the Minister made those comments, I had a quick look at the Measure and I could not find any reference to points on the minimum, but the Minister or his officials may be able to point me to where that is relevant. I could not find it in the Measure.

[34] **Jenny Randerson:** I think that that emphasises the point that I wanted to make—I thank Gwyn for that—namely that there is no intention to remove the minimum. That is an important issue, because the whole philosophy of this is that of improvement. I am not, in any way, impressed by the arguments that I have heard against this amendment. We are now looking at institutions working together and providing a balanced programme of study together.

[35] Pupils and students have always been able, in law, to study any number of courses. However, they have not, in practice, been able to study any number of courses, because however extraordinarily bright they are, there are only so many hours in the day and days in the week. So, time alone restricts that. I have not come across a learning institution yet that would support the argument that enabling its brightest pupils to do well by taking more courses actually detracts from the rights of the lesser able pupils to study. In fact, numbers are key to the ability of institutions to put on a very large number of courses. There are, in practice, problems in schools and colleges all the time with the number of courses that they

can offer, because they need to have a certain minimum number of pupils and students to offer courses, to make them feasible. This Measure is designed to get over that problem by co-ordinating and co-operating, but it is still an issue that will occur from time to time. Having additional people wanting to study a course will, in fact, enable other pupils and students to undertake that course as well, whereas in some conditions it might have been denied to them because there would not have been a sufficient number of students.

[36] We must do everything in Wales, where, historically, our problem has been that we have been less well qualified as a nation than our competitors. We should be doing everything that we can to enable the most able to fly. I do not see why the traditional method of counselling, discussion and co-ordination with pupils and students should not work in this case as well. Tutors will advise and say, 'You cannot cope with all of that', and in the vast majority of cases, students will co-operate and will take that advice. The number that will not co-operate will be so minor that it will not significantly affect the ability of the college to offer other courses to other pupils and students. Underlying all this is a key issue that has just come up—

[37] **Jeff Cuthbert:** Are interventions allowed?

[38] **Val Lloyd:** No, I have already refused one Member.

[39] **Jeff Cuthbert:** Okay, sorry.

[40] **Jenny Randerson:** Underlying all this is something very worrying that the opponents to this have mentioned, which is about dealing with resources—what they really mean is limiting the amount of money that is spent. We are talking about a small number of students and, therefore, we are not talking about a large amount of money that would fundamentally change the purpose and the effectiveness of this, but it could have a massive impact on the small number of pupils who we enable to do better. If the maximum is not specified in clear terms, and it is not—it is just 'the maximum number' in the legislation—that could be whittled down in order to reduce costs and it could start to have an impact on quite a considerable number of students.

[41] **Val Lloyd:** Jenny, do you wish to move to a vote on your amendment or do you wish to withdraw it?

[42] **Jenny Randerson:** I wish to move to a vote.

[43] **Val Lloyd:** The question is that amendment 59 be agreed to. I call for a vote.

*Gwelliant 59: O blaid 3, Ymatal 0, Yn erbyn 2.
Amendment 59: For 3, Abstain 0, Against 2.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Jonathan Morgan
Jenny Randerson
Janet Ryder

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Jeff Cuthbert
Sandy Mewies

*Derbyniwyd gwelliant 59.
Amendment 59 carried.*

[44] **Val Lloyd:** I remind Members that there will be no vote on amendment 60 at this point; we will return to a vote on amendment 60 later in the proceedings.

Cwricwla Lleol: y Gymraeg (Adran 6)
Local Curricula: Welsh Language (Section 6)

[45] **Val Lloyd:** We now move to the next group, which is on local curricula and the Welsh language. I call amendment 41 in the name of Andrew R.T. Davies, which is grouped with amendments 42, 1 and 15.

9.40 a.m.

[46] They relate to the formation of the local curricula and the Welsh language. I invite Jonathan Morgan to propose amendment 41 and to speak to the other amendments in the group. Amendment 41 can be found on page 1 of the marshalled list.

[47] **Jonathan Morgan:** I propose amendment 41.

*Cafodd gwelliannau 41, 42, 1 a 15 eu grwpio ar gyfer y drafodaeth.
 Amendments 41, 42, 1 and 15 were grouped for debate.*

[48] The amendments tabled by Andrew R.T. Davies relate to sections 6 and 24 of the proposed Measure. The amendments are identical except for the fact that the one amendment deals with pupils at key stage 4 while the other deals with pupils aged 16 to 18.

[49] The evidence to the Stage 1 committee made it clear that the proposed Measure needed amending to recognise the role of Welsh-medium provision and the fact that not only has Welsh-medium education expanded significantly over the past decade, but that children who study in Wales should have the right to choose courses through the medium of English and the medium of Welsh. The amendment tabled by Andrew R.T. Davies notes the right to choose through which medium courses are followed.

[50] During Stage 1 and in the committee report, the committee made a clear recommendation to the Minister to bring forward amendments at Stage 2—and I see that the Minister has done that—to provide learners, on the face of the proposed Measure, with an entitlement to study through the medium of Welsh if they so choose. That backs up the evidence that the committee took during Stage 1. Concerns were raised by UCAC and the Welsh Language Board highlighting the need to recognise Welsh-medium provision in the proposed Measure.

[51] As an institution, the Assembly places great emphasis on our role in advancing the cause of a bilingual nation and in enhancing people's right to live as much of their daily life as possible through either English or Welsh. This institution will at some point proceed towards a Welsh-language legislative competence Order. The amendment is consistent with the strategic direction of the Assembly and the Assembly Government, and it is consistent with the Assembly's desire to provide for individuals' rights to pursue their education through Welsh or English—*[Inaudible.]*—for that right to be exercised. I am delighted that Andrew R.T. Davies has tabled the amendment, and I am delighted to propose amendment 41.

[52] **Janet Ryder:** Much of what Jonathan said is true. Great concern was expressed during the Stage 1 committee that the Measure as proposed will have a detrimental impact on the development of Welsh-medium provision and on progression in Welsh-medium provision for those who are already in the system. Great concern was expressed when the committee report was drawn up, and the report specifies that the Stage 1 committee would like to see commitment to Welsh-language provision clearly written into the Measure.

[53] Unfortunately, in the amendment that Jonathan proposed, the only way to make study through the medium of Welsh a right is by giving people the right to study through the

medium of Welsh or English. That will give students who want to study through the medium of Welsh that provision. As we know from a similar debate on the learner travel Measure, such an amendment would create an unfortunate side effect in those schools that solely provide Welsh-medium education, and perhaps not just in those schools, but in those areas. As much as I would like to see a measure similar to that, I will not be able to support the amendment as it stands. The Government amendments, which we will come on to, build on what was in the learner travel Measure. They do not give the right and they do not safeguard progression for those who are already in the system, and that is a weakness in the Government amendment that needs to be looked at and addressed. However, the amendments go further than the amendments to the learner travel Measure, and they impose a duty on local authorities and colleges in Wales to promote access to Welsh-medium education. Local authorities will start to see the momentum that is building behind Welsh-medium education as they start to undertake their early years surveys, and an increasing number are seeing more families wishing for their children to study through the medium of Welsh. It is a growing movement, because people are realising the educational advantages, and the demand is growing quite substantially in a number of areas where it is perhaps not thought of as being the norm to study through the medium of Welsh. Those authorities will have to develop that provision.

[54] Therefore, the Government amendment will encourage access to that provision. The other Government amendment that will speak to colleges is crucial, because the Welsh-medium provision in further education colleges at the moment is very weak. It is an area that desperately needs to be looked at and developed. Although I will support the Government amendment, it has a weakness in that it does not provide progression for those students who are already studying through the medium of Welsh and who want to choose a college course and continue to study through the medium of Welsh. If the amendment were to allow that continuation so that students can progress easily from school to college and mix their courses, as this Measure intends, and still have the ability to study through the medium of Welsh without having to turn to studying through the medium of English, which they may not choose to do, the Government amendment would have been very strong. However, I am afraid that we have the Government amendment as it stands, which I will support, but for the reasons stated, I will not be able to support the other amendment.

[55] **Jenny Randerson:** When we were discussing this amendment prior to its submission by Andrew, we intended to put forward a stronger amendment than the Government's amendment. We were trying to make a stronger amendment in respect of the issues that Janet has raised. The reality of the situation is that the provision of Welsh-medium vocational courses in colleges has generally been exceptionally poor. We must be realistic about the length of time that it will take to build that provision, therefore we avoided an amendment that tried to say that everyone should have identical access in both languages, because that would be totally unworkable at present.

9.50 a.m.

[56] However, at the same time, we were very keen to do more than just make a vague reference, which is true of some parts of the Government amendment—although I welcome it—as it will place too vague an obligation on learning providers. So, we took the opposite approach. Rather than putting the obligation on the providers, we gave the right to the learners to choose to study through the medium of Welsh. If learners have that right, by implication, there must be a full suite of courses that they can study through the medium of Welsh, and that full provision, working in co-operation, must be provided for learners. As we are moving towards a new era of co-operation, there should be no excuses as to why full provision cannot be made available. We have taken the opposite approach to the Government. We have given the learner rights, rather than putting obligations on the learning providers.

[57] **Jeff Cuthbert:** I have a lot of sympathy for this issue. As you know, I was chair of the Stage 1 committee, and I fully support the strides to make Wales a bilingual nation. It follows from that that learners should have the right to study in whichever of the two languages they wish to, or in combination, depending on the nature of the course. However, because there is a mixture of learning centres, we must remember that, at this time, they could learn in a school, in a college, with a workplace learning provider, and quite possibly on an employer's premises in a structured way. So, there will be practical constraints at this time and for the immediate foreseeable future, at least, to meeting the desire behind Andrew's amendment. That is not to say that we should not work towards a position where all aspects of a learner's pathway can be delivered through the medium of Welsh, if that is what the learner chooses. The Government's amendment is the best way forward at this time, although I would recommend, as we did in Stage 1, that we move to a position where a learner has a legitimate choice, but I feel that Andrew's amendment, at this time, could have a serious but unintended consequence, as Janet has outlined, with parents sending their children to the nearest school, which happens to be a Welsh-medium school, and insisting that their courses be delivered through the medium of English. We would not want that, but it could, nevertheless, be a consequence of the amendment from Andrew, if it were passed.

[58] **Sandy Mewies:** Janet and Jeff have summed up the issue. I completely understand the spirit of Andrew's amendment, and I have long been a supporter of Welsh-medium education—my son went through that system, and I have great admiration for it—but the unintended consequences have not been properly thought through. I also think that Janet's point on further education needs underlining, namely that there are problems of continuance.

[59] **Val Lloyd:** I call on the Deputy Minister to speak to his amendments and the others in the group.

[60] **John Griffiths:** We oppose amendments 41 and 42, and urge support for the Government amendments. The Welsh Assembly Government is fully committed to creating a bilingual nation under 'Iaith Pawb', but we must accept that, at this stage, we are not there yet. Providing the choice of English or Welsh-medium education at the current time in the way that amendments 41 and 42 seek to do is undeliverable and impractical. The 14-19 learning pathways policy and the Measure have been useful in developing Welsh-medium provision, including vocational provision, and there has been ring-fenced funding and various policies to develop that provision, but there is still some way to go, which we accept. It is true that amendments 41 and 42 would pose a great number of difficulties for Welsh-medium providers, because it works both ways and they would have to provide English-medium options for all their courses, which would place a significant burden on those providers.

[61] It is also true that there has been effective co-operation and clustering among Welsh-medium providers, which has improved the choice available through the medium of Welsh. If these Welsh-medium providers had to focus on providing English-medium courses, it would be quite a diversion from that co-operation and clustering in terms of increasing Welsh-medium choice. Therefore, I am not able to support amendments 41 and 42.

[62] Amendments 1 and 15 are Government amendments. We believe that they are entirely consistent with 'Iaith Pawb' and our 14-19 learning pathways policy under the direction that both of those take. We have the Welsh language development unit within the Welsh Assembly Government which, we think, is an example of our commitment to developing the Welsh language and to the provision of services through the Welsh language. Concerns were expressed at committee and otherwise regarding the promotion of the Welsh language and the fact that that should be an aspect on the face of the first major Welsh education Measure, which we have very much listened and responded to as a Government, because these amendments do just that. They articulate the existing commitment of the Government to place Welsh-language development at the heart of any new initiative.

Amendments 1 and 15 emphasise the importance that the Welsh Assembly Government attaches to the promotion of the Welsh language, in that they would impose a duty on local education authorities and Welsh Ministers to promote courses taught in Welsh when exercising functions in the establishment of local curricula.

[63] For all of those reasons, I would urge support for amendments 1 and 15.

[64] **Val Lloyd:** Thank you. I call on Jonathan Morgan to reply to the debate.

[65] **Jonathan Morgan:** I am very interested in some of the comments that the governing parties have made with regard to amendments 41 and 42. The intention was to create a right and I think that the Assembly is broadly supportive of the idea of language rights. It may have a disagreement as to how far those rights can be exercised and what the practical consequences are, but there is a substantial difference between our amendment and the Government's amendment, which does not make reference to entitlement, despite the fact that the recommendation of the committee at Stage 1 talked about the need for the Measure to refer to the entitlement of learners to study through the medium of Welsh. There is no emphasis in the Government amendment on the wishes of the learner. As Jenny Randerson rightly said, it is merely about the role of the provider, and, in the Government's amendment 1, about promoting access. Its role is constrained to the promotion of access to courses of study through the medium of Welsh and then to put in a range of conditions with regard to a sort of reporting mechanism whereby the Government is expecting local education authorities to report, describe the courses of study, and state how many pupils have elected to follow those courses of study. It then explains what the local education authorities would do in future academic years. Although I can understand where the Government is coming from, I am concerned that the ambition of the Government is quite restricted. There is a stark difference between a rather weak restricted ambition on the part of the Government amendment and what is in the amendment that we have tabled, which refers to the rights of learners. Therefore, again, we are centring this around the learner as opposed to merely centring this on the providers and those local education authorities.

10.00 a.m.

[66] Jeff Cuthbert said in his contribution that learners should have the right, and I wrote that down when he said it, but the Government provides no rights for learners. Our amendment does. I think that what we see here is merely the issues of practicality as opposed to the Government thinking about how the practical problems could be thought through once we enshrine a right for learners. If we are talking about an education system that looks at what learners need, not only in terms of the nature of the courses that they study, the subjects that they are able to access, and the breadth of the education that people are to have, we should be considering rights around language and the medium through which those courses are offered. I accept that the Government needed to table an amendment, but I do not think that the amendment that has been tabled reflects what the committee decided at Stage 1. I am broadly sympathetic to it and if our amendment is not carried this morning, I will have to give consideration to whether or not I will support the Government amendment. However, the Government amendment does not even reflect the nature of entitlement as was described in the recommendation at Stage 1. I heard what was said about the potential impact on Welsh-medium provision as it currently stands, and the amendment as it is framed purely gives the learner the right to study somewhere—it does not specify where that course of study must be undertaken, it merely says that that learner has the right to study a course through the medium of Welsh or English. It does not specify a geographical location, in terms of where a learner should undertake that study. So, the Government needs to bear that aspect in mind.

[67] I understand where Jeff and Sandy are coming from; I think that the Government amendment is much weaker than our amendment, and much weaker than what was

recommended in the report. If we are to be serious about rights-based legislation in the future around the language, so as to give a clear steer to education authorities and to other public bodies, as we may do in the future around language, we ought to start doing that with this Measure.

[68] **Val Lloyd:** Jonathan, do you wish to move to a vote on amendment 41 or to withdraw it?

[69] **Jonathan Morgan:** I wish to move to a vote, Chair.

[70] **Val Lloyd:** The question is that amendment 41 be agreed to. I call for a vote.

*Gwelliant 41: O blaid 2, Ymatal 0, Yn erbyn 3.
Amendment 41: For 2, Abstain 0, Against 3.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Morgan, Jonathan
Randerson, Jenny

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Cuthbert, Jeff
Mewies, Sandy
Ryder, Janet

*Gwrthodwyd gwelliant 41.
Amendment 41 defeated.*

[71] **Val Lloyd:** There will be no vote on amendments 42, 1 and 15 at this point. We will return to vote on those later in proceedings.

**Hawlogaeth—Penderfyniad Pennaeth Ysgol neu Bennaeth Sefydliad ynghylch
Hawlogaeth ac i Ddileu Hawlogaeth (Adran 8, Adran 10, Adran 26, Adran 28)
Entitlement—Head Teacher / Principal’s Decisions as to Entitlement and to Remove
Entitlement (Section 8, Section 10, Section 26, Section 28)**

[72] **Val Lloyd:** Deputy Minister, would you like amendment 2 in your name to be proposed?

[73] **John Griffiths:** Yes.

[74] **Val Lloyd:** I propose amendment 2 in the name of John Griffiths. I call on the Deputy Minister to speak to amendment 2 and the other amendments in the group.

Cafodd gwelliannau 2, 3, 4, 5, 7, 8, 9, 17, 18, 19, 20, 22, 23, 24 eu grwpio ar gyfer y drafodaeth.

Amendments 2, 3, 4, 5, 7, 8, 9, 17, 18, 19, 20, 22, 23, 24 grouped for debate.

[75] **John Griffiths:** I will start off by addressing amendment 4, which gives Welsh Ministers the power to provide for an appeals system in respect of decisions as to entitlement for pupils at key stage 4.

[76] The Measure committee took a range of evidence from stakeholders expressing concern over the need for an appeals process. It has always been my concern that young people should have a clearly established right to appeal on entitlement decisions because I believe that that is a necessary safeguard. The appeals process will also ensure that the grounds for reaching a decision on entitlement are, and have been, appropriately applied. Amendment 4 is supported in its effect by technical amendments, amendments 2 and 3, and amendment 5 ensures that the person determining an appeal is under a duty to have regard to

any relevant guidance that may be issued by Welsh Ministers. Amendment 8 gives Welsh Ministers power to provide for appeals to be made against decisions to remove a pupil's entitlement to follow a course of study at key stage 4, and that amendment is supported in its effect by amendment 7, which is, again, a technical amendment. The purpose of amendment 9 is to ensure that the person determining an appeal is under a duty to have regard to any relevant guidance that may be issued by Welsh Ministers. Amendment 19 will give Welsh Ministers power to provide for appeals to be made against decisions not to allow a student to follow a course of study. It sets out provisions in respect of the 16 to 18 age group, equivalent to those in section 8, which apply to key stage 4. Amendment 19 is supported by technical amendments 17 and 18.

[77] Amendment 20 seeks to ensure that the person determining an appeal is under a duty to have regard to any relevant guidance issued by Welsh Ministers.

[78] Amendment 23 gives Welsh Ministers power to provide for appeals to be made against decisions to remove a student's entitlement to follow a course of study, and covers the 16 to 18 age group. It is supported by technical amendment 22.

[79] The purpose of amendment 24 is to ensure that the person determining an appeal is under a duty to have regard to any relevant guidance issued by Welsh Ministers.

[80] In essence, Chair, all these amendments give Welsh Ministers powers to provide for an appeals process in relation to relevant decisions. In doing so, the amendments answer the request of the Measure committee, and indeed a range of stakeholders who gave evidence. I urge support for these amendments.

[81] **Jeff Cuthbert:** I support the Deputy Minister's comments. This was a key issue in our initial work, and many evidence-providers highlighted this clear omission, both as regards democracy and justice, and said that there should be an appeals system built into the face of the Measure. It is highly appropriate, and consequently I support the amendments.

[82] **Jonathan Morgan:** We must ensure that there are provisions with regard to entitlement, but also with regard to how decisions can be challenged through an appeals process. That process should be consistent with ensuring that education institutions are run fairly, and should allow learners and their families to express concerns if they feel that their entitlement is not being satisfied. The amendments are perfectly sensible and reflect the evidence that was given to the committee at Stage 1, and my party is happy to support them.

[83] **Jenny Randerson:** I simply want to place on record my support for an appeals mechanism for learners. It is an essential part of the balance between the rights of the learner and the ability of learning institutions to realistically provide what is required by this Measure. It ensures that they are always on the side of the rights of the learner, rather than of their own immediate convenience. It is an essential part of the Measure.

[84] **Val Lloyd:** I have no other speakers. I call on the Deputy Minister to reply to the debate.

[85] **John Griffiths:** I would simply like to thank Members for their comments.

[86] **Val Lloyd:** Deputy Minister, do you wish to move to a vote?

[87] **John Griffiths:** Yes, Chair.

[88] **Val Lloyd:** The question is that amendment 2 be agreed to. I call for a vote.

*Gwelliant 2: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 2: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Jeff Cuthbert
Sandy Mewies
Jonathan Morgan
Jenny Randerson
Janet Ryder

*Derbyniwyd gwelliant 2.
Amendment 2 carried.*

[89] **Val Lloyd:** In accordance with the order of consideration, we now move to dispose of amendments 3, 4 and 5 in line with the marshalled list. These amendments appear on pages 2 and 3 of the marshalled list in the name of John Griffiths, and have already been debated with amendment 2. Deputy Minister, would you like amendment 3 in your name to be formally proposed?

[90] **John Griffiths:** Yes.

[91] **Val Lloyd:** I formally propose amendment 3 in the name of John Griffiths. The question is that amendment 3 be agreed to. I call for a vote.

*Gwelliant 3: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 3: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Jeff Cuthbert
Sandy Mewies
Jonathan Morgan
Jenny Randerson
Janet Ryder

*Derbyniwyd gwelliant 3.
Amendment 3 carried.*

10.10 a.m.

[92] **Val Lloyd:** Deputy Minister, would you like amendment 4 in your name to be proposed formally?

[93] **John Griffiths:** Yes.

[94] **Val Lloyd:** I propose amendment 4 in the name of John Griffiths. Amendment 4 was debated with amendments 2 and 3. The question is that amendment 4 be agreed to. I call for a vote.

*Gwelliant 4: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 4: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Cuthbert, Jeff

Mewies, Sandy
Morgan, Jonathan
Randerson, Jenny
Ryder, Janet

*Derbyniwyd gwelliant 6.
Amendment 6 carried.*

[95] **Val Lloyd:** Deputy Minister, would you like amendment 5 in your name to be proposed formally?

[96] **John Griffiths:** Yes, Chair.

[97] **Val Lloyd:** I propose amendment 5 in the name of John Griffiths. This amendment was also debated with amendments 2, 3 and 4. The question is that amendment 5 be agreed to. I call for a vote.

*Gwelliant 5: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 5: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Cuthbert, Jeff
Mewies, Sandy
Morgan, Jonathan
Randerson, Jenny
Ryder, Janet

*Derbyniwyd gwelliant 5.
Amendment 5 carried.*

**Hawlogaeth: Cyflawni Hawlogaethau'r Cwricwlwm Lleol (Adrannau 9 a 27)
Entitlement: Delivery of Local Curriculum Entitlements (Sections 9 and 27)**

[98] **Val Lloyd:** I call amendment 6 in the name of John Griffiths, which is the lead amendment in the group with amendment 21. Deputy Minister, would you like amendment 6 in your name to be proposed formally?

[99] **John Griffiths:** Yes, Chair.

[100] **Val Lloyd:** I formally propose amendment 6 in the name of John Griffiths, and I call on the Deputy Minister to speak to it and the other amendment in the group. Amendment 6 is on page 3 of the marshalled list.

*Cafodd gwelliannau 6 a 21 eu grwpio ar gyfer y drafodaeth.
Amendments 6 and 21 grouped for debate.*

[101] **John Griffiths:** Amendments 6 and 21 simply clarify the duty on schools' and institutions' governing bodies to deliver local curriculum entitlements to pupils in key stage 4, which is what amendment 6 is concerned with, and for 16 to 18-year-olds, which is dealt with by amendment 21, by making available to students the courses that they are entitled to follow.

[102] **Janet Ryder:** I will be supporting these amendments, but I would ask that, as the guidance for this comes out, the Deputy Minister bears in mind the duty that would be imposed should his amendment, relating to a new section 116D(1) of the Education Act 2002, go ahead, that being the duty to promote access to education through the Welsh language. It is

very important that, as guidance comes out, particularly for sections such as this, it is made very clear that students who are already studying through the medium of Welsh have that right protected should they choose to move to a different institution to study a different subject or to continue the same line of study in a different institution. The right to continue studying through the medium of Welsh must be protected and developed. The point that that provision must be developed must really be stressed with authorities and colleges.

[103] **Val Lloyd:** Thank you, Janet. Does anybody else wish to contribute? I see that there are no further contributions. Deputy Minister, do you wish to reply?

[104] **John Griffiths:** I wish only to say that the intention of the section is unchanged by the amendments. The amendments are simply to provide greater clarity as to the duties.

[105] **Val Lloyd:** Deputy Minister, do you wish to move to a vote on amendment 6?

[106] **John Griffiths:** Yes, Chair.

[107] **Val Lloyd:** The question is that amendment 6 be agreed to. I call for a vote.

*Gwelliant 6: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 6: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Cuthbert, Jeff
Mewies, Sandy
Morgan, Jonathan
Randerson, Jenny
Ryder, Janet

*Derbyniwyd gwelliant 6.
Amendment 6 carried.*

[108] **Val Lloyd:** In line with the order of consideration, we now move to dispose of amendments 7, 8 and 9. These amendments appear on pages 3 and 4 of the marshalled list. Deputy Minister, would you like amendment 7 in your name to be proposed formally?

[109] **John Griffiths:** Yes, Chair.

[110] **Val Lloyd:** I propose amendment 7 in the name of John Griffiths. This amendment was debated with amendments 2, 3, 4 and 5. The question is that amendment 7 be agreed to. I call for a vote.

*Gwelliant 7: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 7: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Cuthbert, Jeff
Mewies, Sandy
Morgan, Jonathan
Randerson, Jenny
Ryder, Janet

*Derbyniwyd gwelliant 7.
Amendment 7 carried.*

[111] **Val Lloyd:** Deputy Minister, would you like amendment 8 in your name to be proposed formally?

[112] **John Griffiths:** Yes, Chair.

[113] **Val Lloyd:** I propose amendment 8 in the name of John Griffiths. This amendment was debated with amendments 2, 3, 4, 5 and 7. The question is that amendment 8 be agreed to. I call for a vote.

*Gwelliant 8: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 8: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Cuthbert, Jeff
Mewies, Sandy
Morgan, Jonathan
Randerson, Jenny
Ryder, Janet

*Derbyniwyd gwelliant 8.
Amendment 8 carried.*

[114] **Val Lloyd:** Deputy Minister, would you like amendment 9 in your name to be proposed formally?

[115] **John Griffiths:** Yes, Chair.

[116] **Val Lloyd:** I propose amendment 9 in the name of John Griffiths. This amendment was debated with amendments 2, 3, 4, 5, 7 and 8. The question is that amendment 9 be agreed to. I call for a vote.

*Gwelliant 9: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 9: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Cuthbert, Jeff
Mewies, Sandy
Morgan, Jonathan
Randerson, Jenny
Ryder, Janet

*Derbyniwyd gwelliant 9.
Amendment 9 carried.*

Cydweithio: Cynllunio'r Cwricwlwm Lleol—Anghenion Dysgu Ychwanegol (Adrannau 11 a 29)

Joint Working: Planning the Local Curriculum—Additional Learning Needs (Sections 11 and 29)

[117] **Val Lloyd:** I call amendment 37 in the name of Andrew R.T. Davies, which is grouped with amendment 38. I invite Jonathan Morgan to propose amendment 37, the lead amendment, and to speak to the other amendment in the group. This amendment is on page 4 of the marshalled list.

[118] **Jonathan Morgan:** I propose amendment 37.

*Cafodd gwelliannau 37 a 38 eu grwpio ar gyfer y drafodaeth.
Amendments 37 and 38 grouped for debate.*

[119] These amendments relate to additional learning needs, and it is clear from the work that was done by the committee at Stage 1 that the needs of students with additional learning needs should be addressed in the proposed Measure. Amendments 37 and 38 are identical but relate to two different parts of the proposed Measure. The intention here is to ensure that when a curriculum is planned, the persons charged with undertaking that work take into account the requirements of those with additional learning needs.

[120] The committee identified this as an issue for concern when it took evidence. If we are serious about providing a curriculum that expands opportunity for all learners, the challenges of those with additional learning needs cannot and should not be overlooked. I accept that, when you are drafting legislation, you try to draft it in a way that encompasses all of those people who may benefit from it, but, if you consider the challenges that those with additional learning needs have, it is right that we identify that category of persons in education whose needs need to be taken account of. One would hope, in an ideal world, that that would happen anyway, but this amendment would mean that the proposed Measure would state that the Assembly is taking a particular interest in those with additional learning needs, that it recognises that those people face challenges and that it would expect those persons listed in the proposed section 116H(1) of the Education Act 2002 to take account of those needs in considering the requirements of learners and the responsibilities of institutions. This would make it consistent with a range of other legislation that talks about the responsibilities of authorities to provide for those with special needs and to ensure that the needs of children with special educational needs are met. So, in a sense, this proposed Measure is consistent with a host of legislation and regulations that have been passed by this institution.

[121] If you examine the report that was produced at Stage 1, you will see that it states very clearly that the committee at the time was very concerned that the proposed Measure merely makes an assumption about,

[122] ‘an increased level of ability to cope with its provisions, for example to cope with increased travel and to undertake courses away from the home institution, and that learners with additional learning needs may benefit from increased levels of support to enable them to participate fully’.

[123] We need to ensure that that is assessed as part of the planning process when the curriculum is examined.

[124] The point that was made by Undeb Cenedlaethol Athrawon Cymru, which was referred to in the report, states very clearly that young people, particularly those with learning needs, require flexibility but also stability, and we need to consider those issues and ensure consistency.

[125] The committee made a recommendation and said that it was not satisfied that the Minister had given due consideration to the ability of pupils in mainstream education with additional learning needs to participate in the opportunities provided in this proposed Measure.

[126] So, this amendment, which is very straightforward, gives the Assembly the opportunity to ensure that those planning the curriculum or curricula take these needs into account. We all know from the work that we have done as individuals dealing with families

that it can often be challenging for them to ensure that the rights and needs of their sons or daughters are met by an authority. In carrying this amendment, we would be ensuring that we make a very clear statement that we expect the needs of those pupils to be taken fully into consideration when planning the curriculum or curricula.

10.20 a.m.

[127] **Jenny Randerson:** I am very pleased to support amendment 37. At Stage 1, the committee had some fairly harsh words to say on this matter.

[128] ‘The Committee is not satisfied that the Minister has given due consideration to the ability for pupils in mainstream education with additional learning needs to participate in the opportunities provided by this proposed Measure. Before commencement, the Minister must clearly identify these opportunities and the support that needs to be available for pupils and parents.’

[129] The reality of the situation is that, unless you identify these issues and the additional support required at the planning stage, it will not work properly. We will then be failing our students who have additional learning needs. It is important that we do not underestimate the complexity of the arrangements that this proposed Measure will put in place. It is enormously complex with regard to both timetabling and travel arrangements. It will ask a great deal of our schools and colleges to work together in co-operation.

[130] In such a difficult situation, it will be only too easy to cut corners—albeit not consciously—for pupils with additional learning needs and their specific requirements. If you take pupils with additional learning needs out of one institution and place them somewhere else for part of the week, you will be asking an immense amount of them, in confidence terms and in their ability to cope with a new situation, and you will be putting someone who is innately vulnerable in a difficult situation, particularly in terms of travel arrangements. It is essential that the counselling, the advice, the curriculum planning and the practical day-to-day arrangements be put together during the planning process so that our more vulnerable learners are not disadvantaged by a new situation that should be making things better for them.

[131] **Jeff Cuthbert:** In principle, I do not disagree with anything that has been said in that, of course, any coherent and modern education system must take fully into account the additional learning needs that learners may have. However, I feel that this particular amendment is unnecessary. You are absolutely right, Jonathan, to point out the serious evidence that was provided to the Stage 1 committee. We did not call for a further amendment; we asked that, before commencement, the Minister clearly identifies the opportunities presented by the new pathways and the support that needs to be available for pupils and parents. Following the Plenary debate and the discussions that have been held since, I feel confident that that message has been accepted and will be acted upon. Consequently, there is no need for an amendment of this nature.

[132] We should also bear in mind the significant range of additional learning needs and the fact that special schools are not part of the proposed Measure. We are talking, presumably, about those in mainstream education. Considerable work was done by the previous education committee on additional learning needs and, indeed, by the dyslexia rapporteur group of the current Enterprise and Learning Committee. However, I feel that the Government’s intentions in ensuring the existing roles regarding additional learning needs will be applied coherently to the new pathways.

[133] **Janet Ryder:** I have a great deal of sympathy with what Jenny Randerson and Jonathan Morgan have said in discussing this amendment, bearing in mind what was said in the Stage 1 committee, where many concerns were raised. I accept what Jeff Cuthbert said,

that students attending special schools will not come under this Measure. However, a huge number of students attending a mainstream school need a great deal of support, in the areas that Jenny pointed out. If we are going to ask them to move locations, they will need to be supported very well. They need support not just during classes but also during their downtime—it is during downtime in breaks, between classes, moving around a strange building and lunchtimes that problems can occur. It is during that period that colleges, in particular, find it very difficult to fund that support. It is something that needs to be taken into consideration.

[134] On the issue of learning support, having someone to work with the student, to help them individually, should be taken into account in the student's statement of educational need, or during the planning of the individual's curriculum. This is the area that I would like the Deputy Minister to clarify. There are two types of planning, which impact on each other, one of which is where you plan for individual students and their study path. That will, presumably, be done in the student's base school or college, during which all of the needs of the student should be assessed. Sadly, we know from our own experience that that does not always happen, and it is an area that needs to be given great consideration. The resources needed to make this work—for the less able as well as the most able, which we talked about earlier—need to be given a great deal of consideration. That is an individual type of planning; it is about planning the curriculum, but it is about tailoring it to meet the individual's need.

[135] When I first read the amendment, I saw that the wording in the Measure talks about the authority putting together the programme of study and the courses that it will offer for the whole area, because we are no longer talking about individual institutions. We are talking about a new era, with a combined curriculum across an area. The planning for that means that you are ensuring that training needs for your area are fully assessed and developed in those curricula, and that the academic courses are ready for those who wish to study them. There are language choices in the curriculum that you are planning—you are planning for the development of access to Welsh-medium education. Authorities should be taking the lead, with a much broader strategic role, in ensuring that all individual learners have access, at a level that is right for them, to that course of study.

[136] I want the Deputy Minister to clarify what his intention is in this regard. How does he see the needs of individual students who may need additional support, and who should be given additional support to enable them to take full advantage of the new model, being met in curriculum planning? What is his interpretation of planning the curriculum? Is it a basic, straightforward planning of the curriculum, which must take into account the needs of a wide spectrum of ability? Is it a straightforward management and development of the curriculum? If so, where will the special needs underlined in the Stage 1 committee be taken up, and where will they be safeguarded?

10.30 a.m.

[137] **Val Lloyd:** I see that there are no other speakers; therefore, I call on the Deputy Minister.

[138] **John Griffiths:** Amendment 37, which relates to key stage 4, and amendment 38, which relates to 16 to 18-year-olds, are unnecessary in the Government's view, because there is a whole raft and range of additional learning needs policies and legislation that adequately safeguard the interests of those with additional learning needs in general and in respect of 14-19 policy and the provision that the Measure will take forward. We know that many learners with additional learning needs currently receive additional support in accessing their education, and such support arrangements for those learners with special educational needs will continue. They are not undermined by the Measure in any way. They will aid pupils to access the provisions under the proposed Measure. These amendments appear to

underestimate the extent of existing provision and practice in relation to additional learning needs and, for those reasons, we cannot support them.

[139] When it comes to planning the curriculum, as Janet mentioned, we are intent on continuing with the long-established policy direction of mainstreaming, which means just that—in planning the local curriculum, at all levels and with regard to all aspects, the general need of learners in the area in the relevant age group is taken into account, and additional learning needs are mainstreamed within that. As a consequence, those with additional learning needs must benefit, as any other learner would, from the Measure and the legislation that we are taking forward. That is very much the spirit of Welsh Assembly Government policy, as it has been for a long time. There is a whole range of policies and legislation to support that approach, which will end up in what we take forward with the Measure.

[140] **Val Lloyd:** I call on Jonathan Morgan to reply to the debate.

[141] **Jonathan Morgan:** I will deal with a few of the points that have been raised. I am rather surprised that the Government has not sought to address what I think is a deficiency in the planning stage, as set out in the Measure, with regard to the planning of the curriculum across an area. We must take stock of what this section of the Measure does. It is a new feature, and is absolutely central to ensuring that the reforms work. Planning a curriculum is difficult enough as it is, but to do so across institutions and across an area will become more complex, and I do not think that we can underestimate the importance of this particular section of the Measure, which is why we felt that it was necessary to table an amendment to ensure that the requirements of those with additional learning needs would be taken into account. We cannot specify exactly how we feel that those requirements would be taken into account, for we cannot be prescriptive, and we would hope that existing best practice would be used, but that is relying purely on hope and existing practice, and making assumptions that all that will be transferred into the new planning process.

[142] Jenny rightly referred to the complexity of the arrangements with regard to the new planning process. I do not think that we can underestimate the level of work that will have to be done to ensure that the curriculum is planned effectively, and the range of measures that will have to be put in place to ensure that the curriculum can be delivered in the variety of settings that will be expected to be used. Jeff said that we do not need this amendment, because we can rely on the Deputy Minister identifying opportunities—I think that that was the term that he used—as referred to in the Stage 1 report, but if we are to ensure that those with additional learning needs participate in the opportunities for learning provided by the curriculum, that those opportunities are identified at that key planning stage and that those with additional learning needs benefit from those opportunities, we need to ensure that those involved at the planning stage take those considerations into account. Otherwise, there is potential for those people with special needs or with additional learning needs to fall through the gaps if they are not taken into account. Effectively, although the outcome of the committee consideration at Stage 1 does not come forward with a specific recommendation except to suggest that the Deputy Minister, before commencement, must clearly identify these opportunities, I believe that we can take that a stage further and ensure that the obligations are placed on those people who are undertaking that key planning stage.

[143] We have other amendments tabled for consideration during Stage 2 that look at the safeguarding of vulnerable groups of students. These amendments fit in nicely together in terms of ensuring that the legislation deals with individuals who have particular needs. The Deputy Minister states in his reply that we underestimate existing practice. However, I have to say to you, Deputy Minister, that existing practice is not what it is cracked up to be. There are huge gaps in the way in which services are delivered for young people with additional learning needs. We know that some local authorities in Wales are absolutely dreadful at ensuring that young people with particular special needs are catered for. I am grateful that it is

somewhat better in my authority than it is elsewhere. We cannot just say, ‘Let us rely on existing practice’, because some of that existing practice is pretty shoddy. We need to be tougher. I mentioned earlier the balance, in writing Assembly Measures, between being prescriptive on the one hand and ensuring that certain things are done, and ensuring a degree of flexibility on the other hand to rely on professional expertise being followed on the ground. This is something on which we need to be prescriptive and say that we will, as an institution, back those people with those additional learning needs.

[144] I do not think that we can underestimate the scale of the work that will need to be done in planning the curriculum, and I think that those with those particular needs, in the way that that curriculum is planned, need to be taken into account. We cannot simply sit here and expect existing practice, in whatever shape or form that it takes in Wales, to merely be the guiding hand. It would be wrong for us to do that.

[145] **Val Lloyd:** Jonathan Morgan, do you wish to move to a vote or do you wish to withdraw your amendment?

[146] **Jonathan Morgan:** I wish to move to a vote, Chair.

[147] **Val Lloyd:** The question is that amendment 37 be agreed to. I call for a vote.

*Gwelliant 37: O blaid 3, Ymatal 0, Yn erbyn 2.
Amendment 37: For 3, Abstain 0, Against 2.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Jonathan Morgan
Jenny Randerson
Janet Ryder

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Jeff Cuthbert
Sandy Mewies

*Derbyniwyd gwelliant 37.
Amendment 37 carried.*

**Cydweithio—Cynllunio’r Cwricwlwm Lleol—Ysgolion Ffydd (Adrannau 11 a 29)
Joint working—Planning the Local Curriculum—Faith Schools (Sections 11 and 29)**

[148] **Val Lloyd:** I call amendment 39 in the name of Andrew R.T. Davies, which is grouped with amendment 40. I invite Jonathan Morgan to propose amendment 39 and to speak to the other amendment in the group.

[149] **Jonathan Morgan:** I propose amendment 39.

*Cafodd gwelliannau 39 a 40 eu grwpio ar gyfer y drafodaeth.
Amendments 39 and 40 grouped for debate.*

[150] It is a straightforward amendment in relation to sections 11 and 29 of the Measure, looking at the centrally important part of planning the curriculum and curricula that,

[151] ‘in planning the local curriculum or curricula, the persons mentioned in subsection (1) must take into account the interests of faith schools’.

[152] There are many parts of Wales where we have a number of faith schools. If you look at the range of secondary school provision that we have in some parts of Wales within faith schools, you will see that not only do they provide a strong but different ethos in some respects to what we normally see being delivered through the education system, but they are

schools that are somewhat different, not just in their character and ethos but in the way in which the services are delivered and the geographical areas that they physically cover. If you were to look at Cardiff, for example, you would see that there are two secondary schools within the Anglican faith, and they both have a catchment area that covers Cardiff and a substantial part of the Vale of Glamorgan. Therefore, their catchment areas—the boundaries within which students are attracted to attend those schools—are fundamentally different to the catchment areas, for example, that relate to the secondary schools within the maintained sector.

10.40 a.m.

[153] That is also the same for Catholic schools. Looking at the evidence provided to the committee, particularly the written evidence, the Catholic education service was very clear in that we need to take into account the location of those schools. It emphasised that we should ensure that schools across a range of boundaries are taken into account, including boundaries between LEA areas. In the case of Cardiff, you will have students from the Vale of Glamorgan attending schools in Llandaf, which is in a different LEA area to the one that they live in.

[154] The committee also discussed this with the National Association of Head Teachers, and the Association of School and College Leaders. The committee recommended that the Minister further consider the impact of the proposed Measure on faith schools prior to commencement. It is sensible for those who plan the curriculum to take into account the role of faith schools—partly because of the geographical areas that they cover, partly because they cross local education authority boundaries, but also because they work differently to other schools and provide a different kind of education. This amendment merely points to the complexity of service delivery, and ensures that proper account is taken of the role of faith schools.

[155] **Jenny Randerson:** I strongly support this. The danger is that we create a new world of education in which size equals power and overrules the interests of minorities. Faith schools will always be a minority, although a significant one; in my own constituency they amount to a large minority. It is important that we safeguard their interests and their separate ethos. This amendment refers to schools, but I have been much involved in discussions with St David's College, a Catholic sixth-form college, which was proposed for merger with Barry College and Coleg Glan Hafren. The college brought its concerns to me and we talked about how keen it was to liaise with other faith schools and colleges, not just Catholic ones, rather than lose its separate identity. It is important that we do not create a world where everything is uniform, and that we take account of the concerns and the identity of faith schools—just as other amendments that I have tabled or supported have taken account of the interests and concerns of pupils with additional learning needs, and pupils who want to learn through the medium of Welsh. This philosophy is the same—to ensure that we do not create uniformity in attempting to widen opportunity, and that we take account of the particular interests of this group.

[156] **Jeff Cuthbert:** I recall the evidence that we had on the issue of faith schools at the Stage 1 committee. The recommendation, as has been alluded to, is that the Minister considers further the impact of the proposed Measure on faith schools before commencement. It is no stronger than that; there is certainly no call for an amendment to the Measure.

[157] I feel that the amendment is unnecessary because the policy will be applied to all maintained schools, and that will include faith schools. Again, I am concerned in particular about the issue of unintended consequences—and I am sure that they would be unintended. It is interesting that the argument in this debate so far has shifted towards institutions—faith schools in this case—as opposed to the interests of learners. The whole ethos of the pathways

is that, where it is deemed appropriate, learning may be achieved in a number of settings. It could be just one or two, but it could be several. It could be in the school itself, a further education college, or even with work-based learning providers or on employers' premises. Therefore, to state in the proposed Measure that you must take into account the interests of faith schools, as opposed to any other learning institution, could erect a barrier that might affect a learner's choice with regard to the range of courses that they wish to study and the locations where that can be provided, and it shifts away the commitment from the learners towards an institution or institutions; in this case, faith schools. In summary, I do not feel that it is needed. Again, the issue of unintended consequences weighs heavily on my mind.

[158] **Janet Ryder:** I agree with what Jeff has just said. So far, we have been talking about the individual's ability to access the curriculum of their choice. As they are drawn up, curricula must bear in mind the choice of individuals who wish to have a faith-based education. However, the effect of the amendment would be a shift towards separating out a particular form of institution and saying that those should be treated differently. Saying that a person has an ability to access a curriculum through a faith-based system of education is slightly different to saying that we will protect the interests of faith-based schools—this is quite apart from the good job that they are doing. The idea of having a catchment area would not sit alongside this proposed Measure, because the pupil can choose to have a home institution but study in a number of different institutions—wherever the curriculum is best put together for that individual learner. Therefore, I will not be able to support this amendment.

[159] **John Griffiths:** The proposed Measure underpins the 14-19 learning pathways policy, which has developed over a period of years. Faith schools have played a full role in shaping the development of that policy and taking it forward, and we very much expect that to continue after the proposed Measure becomes law. We would expect that to be factored into LEA planning of curricula for faith schools, because that has been the history of progress thus far. We are also content that there is enough flexibility in the proposed Measure to enable faith-based institutions to work together and with other partners to achieve the proposed Measure's objectives. We have seen these cluster arrangements developing across Wales, with faith schools and non-faith schools working together. These clusters are very important, and they build very much on local flexibility and addressing the geographical issues that have been mentioned. In Cardiff, for example, there is a cluster of faith schools that not only work with each other but with community schools. There are several faith schools involved in that cluster, so we do not think that these amendments are necessary.

[160] **Val Lloyd:** I call on Jonathan to reply to the debate.

[161] **Jonathan Morgan:** Thank you, Chair. I think that Jenny Randerson is right in saying that this amendment is consistent with the other amendment that we proposed with regard to Welsh-medium education. We are trying to ensure that we underpin the complexity [*Inaudible.*]—of the delivery of our education service. All schools are not the same, and, from a legal perspective, they are not all run in the same way either. From what Jeff said, I do not see that the amendment is unnecessary and I do not see that there would be unintended consequences with some sort of barrier being erected. I do not think that there is any evidence to support that. This clearly reflects the nature of our education service as it is. It recognises the church schools as faith schools, and in future, potentially, there could be different types of faith schools. Faith schools are different.

10.50 a.m.

[162] They are not just different in character and ethos, or in terms of the area that they cover, but in the way that they are run. The Minister has said, once again, that there is a level of expectation. We go back to the idea that we would merely expect the planning process to take account of faith schools. However, I remind the Minister that the committee said that:

[163] ‘We recommend the Minister consider further the impact of the proposed Measure on faith schools before commencement.’

[164] I know that we are not at the commencement stage, but I have heard nothing from the Deputy Minister this morning that gives me any reassurance that he has, in fact, considered further the impact of the proposed Measure. The Minister has purely ignored that recommendation by the committee. I accept Jeff’s point that the Stage 1 committee did not make any specific recommendation around amending the Measure, but there is clearly a recommendation that the Government should consider what the impact on faith schools will be. In the absence of any consideration by the Assembly Government, I am keen that this amendment, tabled by Andrew R.T. Davies, should stand.

[165] **Val Lloyd:** Do you wish to move your amendment to a vote, Jonathan?

[166] **Jonathan Morgan:** Yes.

[167] **Val Lloyd:** The question is that amendment 39 be agreed to. I call for a vote.

Gwelliant 39: O blaid 2, Ymatal 0, Yn erbyn 3.

Amendment 39: For 2, Abstain 0, Against 3.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Morgan, Jonathan
Randerson, Jenny

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Cuthbert, Jeff
Mewies, Sandy
Ryder, Janet

*Gwrthodwyd gwelliant 39.
Amendment 39 defeated.*

Val Lloyd: We will now have a short break and return at 11.10 a.m.

*Gohiriwyd y cyfarfod rhwng 10.51 a.m. a 11.09 a.m.
The meeting adjourned between 10.51 a.m. and 11.09 a.m.*

**Cydweithio—Cynllunio’r Cwricwlwm Lleol—Gweithio gydag Awdurdodau Addysg
Lleol Cyfagos (Adrannau 11, 12, 29 a 30)**

**Joint Working—Planning the Local Curriculum—Working with Neighbouring LEAs
(Sections 11, 12, 29 and 30)**

[168] **Val Lloyd:** The next grouping of amendments is in relation to working with neighbouring LEAs when planning the local curriculum. I call on Jenny Randerson to move the lead amendment, amendment 61, and speak to the other amendments in the group. Amendment 61 is on page 5 of the marshalled list.

[169] **Jenny Randerson:** I propose amendment 61.

*Cafodd gwelliannau 61, 62, 63 a 64 eu grwpio ar gyfer y drafodaeth.
Amendments 61, 62, 63 and 64 grouped for debate.*

[170] These amendments relate to joint working and collaboration across local education authority borders. They relate to committee recommendation 16, which, at the end, states:

11.10 a.m.

[171] ‘Furthermore, amendments will be required to ensure that neither local curricula nor collaboration are restricted by Local Authority boundaries.’

[172] The substantive part of the amendment involves inserting new words at the end of the existing provisions in the legislation—not taking anything away, as such, but adding issues relating to collaboration across borders. The purpose of this is to deal with the realities of life and to make it explicit that collaboration should not be restricted by local authority boundaries. This is particularly the case, I would say, in relation to further education colleges. In reality, it is often most convenient for institutions—and, indeed, most convenient for their learners—if co-operation is commenced and organised with their nearest institution and their nearest neighbouring institution and institutions, which may be in different local education authority areas. This relates to curriculum planning guidance and the issues of ensuring, from a learner’s point of view, that whatever co-operation arrangements their main institution of learning is entering into are really convenient for them, so that we minimise, in many cases, the travel that they have to undertake. This is an issue even in an urban area such as Cardiff where, out in the west of the city, and, indeed, in the east of the city, very often the best co-operation might be with an institution that is over the border. However, it is also particularly relevant in rural areas where not co-operating with the institutions closest to you simply because they are not in your local education authority area, could mean having to travel considerable distances. This amendment is penned very much with the convenience of the learner in mind. It will minimise travel time for lecturers and teachers as well, so it will have a very good impact in terms of environmental concerns. The intention is to make it easy to build on a situation where co-operation has already existed and to make it absolutely explicit that people should not be tied down to local education authority boundaries.

[173] **Jeff Cuthbert:** I must admit to being a little baffled by amendment 61 because, on the face of it, it states that the local education authorities

[174] ‘may assist neighbouring local education authorities with the planning of their local curricula.’

[175] I am not aware of any barriers that prevent that from happening now. No doubt the Deputy Minister will clarify whether that is the case or not. I believe that it is already possible for one or more local education authorities to get together in order to help with the planning of the local curricula. So, I am not sure why it is felt to be necessary. Jenny referred to transport issues, but transport is not referred to explicitly. It may be an implicit outcome, but I think that those matters are already there. Local authorities are able, and will be able under the pathways policy, to discuss with neighbouring bodies and the FE sector, and colleges will be able to get together, so I question the need for it at all.

[176] **Janet Ryder:** My reading of amendment 61 and the other amendments in the group is that the proposed Measure talks about the local authority area, and when you are talking about the ability to access Welsh-medium education, in many cases, it must be seen across a much broader area than one local education authority. In Stage 1, quite a lot of consideration was given to schools situated on authority borders and the ability for such schools and their authority to think about curricula with neighbouring authorities. I would like clarification from Gwyn Griffiths on this point. Is it his consideration that the proposed Measure, as it stands, relates only to the formation of curricula within local authority areas? Is that all that the current wording allows, or is there flexibility? My reading of it leads me to the conclusion that the flexibility is not there. It may be happening, but, as it is written, the proposed Measure restricts things to a local area authority.

[177] **Val Lloyd:** Are you able to answer that now, or do you want some time to consider

the matter?

[178] **Mr Griffiths:** Subsection 11(1) of the proposed Measure requires co-operation. It states ‘must assist’, but paragraph 1(1)(a) states,

[179] ‘the governing body and head teacher of any maintained secondary school maintained by the authority;’

[180] and then in 1(1)(b),

[181] ‘the governing body and principal or other head of an institution within the further education sector in the authority’s area.’

[182] There is therefore no explicit prohibition of working across boundaries, but the implication is that it is those bodies that co-operate with the local authority.

[183] **Janet Ryder:** I will ask for further clarification, then. If the amendment is carried, will it enshrine in the Measure the ability to co-operate across boundaries, but not make it compulsory to do so?

[184] **Mr Griffiths:** The amendments all state ‘may assist’ and are therefore permissive rather than requiring it to happen.

[185] **Jonathan Morgan:** I support amendments 61, 62, 63 and 64 in the name of Jenny Randerson. My reading of the Stage 1 committee report, and my reading of the proceedings, is that there was a clear intention to ensure that flexibility. The proposed Measure specifies work within a local authority area, and the clear intention was that that should be expanded. The report states that there should be a duty to collaborate rather than a duty to consider collaboration. The report also states that we need

[186] ‘to ensure that neither local curricula nor collaboration are restricted by Local Authority boundaries.’

[187] Amendment 61 takes us to the stage where we provide those individuals with the ability to collaborate across local education authority boundaries. Jenny is right; there are countless anecdotal examples of schools that, lying near to an authority’s boundary, have a closer working relationship with schools in the neighbouring authority than with schools, colleges and other organisations within their own authority. This amendment supports the committee’s recommendation, and does so in a sensible way.

[188] Jeff’s argument makes me wonder why he backed the recommendation in Stage 1 in the first place, if he does not feel that this amendment is necessary. Amendment 61 merely reflects what the committee considered. I am therefore rather confused by his argument, because this was a recommendation of the committee that he chaired.

[189] **John Griffiths:** I believe that amendments 61, 62, 63 and 64 are unnecessary. When it comes to planning a local curriculum, it is already the case that other local authority areas may be considered, it is just that there is not a duty so to do. The proposed Measure states specifically that co-operation can include any person. If we were to state that local education authorities, headteachers, principals and their governing bodies may assist neighbouring local education authorities, it could cast doubt on whether any other person may assist. For example, we think that private training providers are quite significant in respect of 16 to 18-year-olds.

11.20 a.m.

[190] As the proposed Measure currently stands, without the amendments, it is possible to include everything that is necessary to take forward the arguments made by Members in discussing the amendments. So, they are unnecessary and would not add anything desirable. That is our clear view.

[191] **Val Lloyd:** Thank you very much. Jenny Randerson will respond.

[192] **Jenny Randerson:** Janet got to the crux of the matter by seeking clarification from Gwyn that, as currently worded, the proposed Measure refers to a local education authority. I can imagine the discussions in LEAs across Wales that have legal advice that states that it is within 'the authority' and so that they have discharged their duty. I agree that there is no explicit prohibition on co-operation, but the way in which it is worded makes it much more likely to be interpreted as referring to only one education authority. Jeff says that it is unnecessary because it is already happening. It may happen in some areas, but the default position is that working with institutions in your area is seen as the easier and natural thing to do.

[193] Recommendation 16 in the committee's Stage 1 report is very explicit and strong. It says that amendments will be required. The committee could not have been more specific or stronger than that. We must be clear that we cannot rely on the Minister's current practice and goodwill, because we are not writing legislation only for the current scenario, the current Government or the current incumbent. Ministers come and go—although I hope not too soon, Deputy Minister—but that is the reality of life. We must write legislation for a long time that allows for a different trust from that preferred by the incumbent Minister.

[194] Janet made a very good point in relation to Welsh-medium education. Gwent, Monmouthshire and south-east Wales, for example, currently work across boundaries. We do not want legislation that encourages people to work within boundaries, which would reduce the possibility for any type of co-operation.

[195] An important point was made about co-operation with training providers and others. If you look through the amendments that were tabled by the opposition parties, you will see an amendment that makes it clear that there would be co-operation with training providers and the people whom you specify. So, it is essential that we encourage cross-border working by making it explicit that, if they want to do it, they can. It does not make it compulsory.

[196] **Val Lloyd:** Thank you very much. I take it that you wish to proceed to a vote.

[197] **Jenny Randerson:** Yes.

[198] **Val Lloyd:** The question is that amendment 61 be agreed to. I call for a vote.

Gwelliant 61: O blaid 3, Ymatal 0, Yn erbyn 2.

Amendment 61: For 3, Abstain 0, Against 2.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Jonathan Morgan
Jenny Randerson
Janet Ryder

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Jeff Cuthbert
Sandy Mewies

Derbyniwyd gwelliant 61.

Amendment 61 carried.

Cydweithio: Cynllunio'r Cwricwlwm Lleol—Sgiliau Sylfaenol (Adran 11)
Joint Working: Planning the Local Curriculum—Basic Skills (Section 11)

[199] **Val Lloyd:** I call amendment 65 in the name of Jenny Randerson, which is grouped with amendment 66. The lead amendment, 65, is on page 5 of the marshalled list. I call on Jenny Randerson to propose amendment 65 and to speak to the other amendment in the group.

[200] **Jenny Randerson:** I propose amendment 65.

*Cafodd gwelliannau 65 a 66 eu grwpio ar gyfer y drafodaeth.
 Amendments 65 and 66 grouped for debate.*

[201] Both these amendments relate to basic skills and build on recommendation 17 of the Stage 1 committee's report, which said:

[202] 'We also recommend that the proposed Measure should place more accountability on head teachers and principals to achieve a certain level of basic skills amongst pupils rather than just a duty to consider co-operation'.

[203] It also builds on the recommendation of Sir Adrian Webb's review and on the evidence that he gave to the committee, in which he said that he would favour placing a duty on headteachers and principals, namely the key individuals concerned with the achievement of basic skills. When we looked at how to table an amendment along those lines, it turned out that it is complex to place a duty on these individuals, because of the interrelationship with other legislation that places duties on them. So, rather than seeking to place the duty that way, we have attempted to achieve the same outcome by introducing the concept of basic skills into the planning of the curriculum. The skills specified are exactly as referred to in the Webb review, and Sir Adrian Webb specifies in that review that he used the official Welsh Assembly Government definition of 'basic skills'.

[204] Looking at the principles of the proposed Measure and what it is seeking to achieve, it seems to me that it will not achieve what we want it to unless we ensure that improving basic skills is included specifically among the many aims of a curriculum. After all, the evidence points to a fundamental problem that many learners face in that they have not achieved those basic skills. So, I hope that this grouping of amendments will receive a sympathetic hearing from the committee.

[205] **Jonathan Morgan:** I place on record my support for amendments 65 and 66. It is strange that, for a proposed Measure that seeks to improve the access of young people to educational opportunities and to improve the potential range of courses that they might study in a number of settings, there is no discussion in it of the need to ensure a level of achievement, particularly within basic skills. From a variety of studies that have been undertaken and a variety of pieces of evidence that the Assembly Government and Assembly committees have taken, we know that basic skills and achievement levels within basic skills remain a problem in certain parts of Wales and among certain groups of young people. It is the one area that employers still complain about. Regardless of all the educational achievements of the past 10 to 20 years, we are still struggling to provide an acceptable level of the most basic skills among those young people when they leave their educational institutions.

11.30 a.m.

[206] I have every sympathy with the view of Sir Adrian Webb that we need to place a duty on certain individuals to ensure a level of basic skills among pupils. However, I accept the

amendment, which I think is crafted in a more productive way—and I am not suggesting that Sir Adrian’s view was not productive, but the amendment works better, in a practical sense, as drafted, ensuring that the planning process effectively takes account of this matter. The Stage 1 committee came to a considered view as to where accountability should lie and thought that a level of basic skills should be achieved by pupils rather than there being a duty to consider co-operation. It was a sensible recommendation that the committee made at Stage 1 and the amendment reflects that.

[207] **Jeff Cuthbert:** I am trying to choose my words carefully. I was present during those evidence-taking sessions and I fully support the importance of acquiring good levels of basic skills. I have no doubt about that. That was stressed in the report to Plenary, and I think that we had a positive response and acknowledgement from the Minister at that time.

[208] I think that these issues will be taken on board at the time of the implementation of the Measure. Although the Stage 1 report referred to the need for amendments, I am not so sure whether that is necessarily the case.

[209] On key stage 4, it refers explicitly here to:

[210] ‘English or Welsh and to use mathematics at a level necessary to function and progress both in work and society’.

[211] I am not sure whether that may be overstating it slightly at that stage of a learner’s development, but I will listen carefully to the points that the Deputy Minister has to say on this.

[212] **Sandy Mewies:** It puzzles me slightly how you can state that a certain level will be necessary for everyone. What happens if that is not enforceable? I accept that I was not on the Stage 1 committee, but I still do not understand how that can be achieved. The whole point of doing this is to look at what can be achieved. However, I agree that basic skills are exceptionally important for young people, but it is the level of those skills that I am not clear about. I am sure that Jonathan will tell me what the level is. It is a fact of life that people are capable of achieving different levels.

[213] **Jonathan Morgan:** I am not able to respond.

[214] **Val Lloyd:** I am sure that Jenny will address it when she sums up. I call on the Deputy Minister for Skills to respond.

[215] **John Griffiths:** I think that it is problematic to determine that level when we talk about legislation. With the words:

[216] ‘a level necessary to function and progress both in work and society’,

[217] it could be problematic to determine exactly what such a level constitutes.

[218] However, in general, we are determined to drive forward basic skills in Wales, which is a big issue. We have an all-age strategy in Wales—the basic skills strategy—to tackle these issues of literacy, numeracy and associated skills. We think that this amendment 65 does not really understand or recognise the interrelationship between the local curriculum, the national curriculum, and the basic and key skills developments in Wales. Existing legislation sets out the requirement for a balanced and broadly based curriculum that prepares pupils for the opportunities, responsibilities and experiences of adult life. We then have our skills framework for three to 19-year-olds, which has the aim of providing guidance about continuity and progression for all of this—thinking, communication, and information and

communication technology skills—which is important in taking this forward.

[219] We think that the generality of what is already taking place will move basic skills forward in Wales, and the proposed Measure complements that. However, this amendment would not add anything of real value, and it is problematic in its wording.

[220] **Val Lloyd:** I call on Jenny to reply.

[221] **Jenny Randerson:** I will deal first with Sandy's point. Sir Adrian Webb wanted to put a duty on the individual principal or headteacher to ensure that every pupil achieved the skills. I can see a major problem with that, in that there are pupils who are unable to achieve the skills, even with the very best teaching in the world. The way in which this is written relates to the planning of the curricula to enable every pupil to do it, if they can do it, and it removes that real problem that Sandy referred to and, therefore, it deals with the realities of life as well as being legislatively simpler.

[222] I wonder why Jeff rejects the idea of this being necessary, given that he chaired the committee that made such a strong recommendation. I am told, although I might be misinformed, that he did not vote against this recommendation. I am mystified, given that we are building on the Stage 1 committee's recommendations in so many of these amendments. With some of them, I fully agree that we have gone beyond what the committee recommended, but with this one, we are 100 per cent in line with what the committee recommended. Therefore, I am mystified that the Chair of that committee now finds all of those recommendations to have been unnecessary.

[223] The Deputy Minister refers to the national curriculum. We are, of course, looking at local curricula that go beyond the age of the national curriculum; that is why this is here and that is why it is necessary to include it. However, I am disappointed with your comment, Deputy Minister, that the generality of what is taking place is good enough, because, to be honest, the generality of what is taking place is not good enough and the position that we, as a nation, are in proves that. Scores for learners at the age of 16, at the end of compulsory education, are not as good as those in England; they are not achieving what they would hope to achieve in England, and we are doing rather worse than that. So, I find the complacency about this matter very much a matter of concern. Why be afraid of stating this obligation to ensure that all young people should be given the opportunity, and to ensure that the curriculum is planned so that they have the opportunity, to achieve their full basic skills? That is my message to you.

[224] **Val Lloyd:** Jenny, do you wish to move to a vote or do you wish to withdraw your amendment?

[225] **Jenny Randerson:** I wish to move to a vote.

[226] **Val Lloyd:** The question is that amendment 65 be agreed to. I call for a vote.

Gwelliant 65: O blaid 2, Ymatal 0, Yn erbyn 2.

Amendment 65: For 2, Abstain 0, Against 2.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Morgan, Jonathan
Randerson, Jenny

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Cuthbert, Jeff
Mewies, Sandy

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog Rhif 10.33.

As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order No. 10.33.

*Gwrthodwyd gwelliant 65.
Amendment 65 defeated.*

Cydweithio—Cynllunio'r Cwricwlwm Lleol: Ymgynghori â'r Sector Busnes etc (Adran 11, Adran 29)
Joint working—Planning the Local Curriculum: Consultation with the Business Sector etc (Section 11, Section 29)

[227] **Val Lloyd:** The lead amendment is on page 5 of the marshalled list. I call on Jenny Randerson to propose the lead amendment, amendment 68, and speak to the other amendment in the group.

[228] **Jenny Randerson:** I propose amendment 68.

*Cafodd gwelliannau 68 a 69 eu grwpio ar gyfer y drafodaeth.
Amendments 68 and 69 grouped for debate.*

[229] This amendment is in line with recommendation 15 of the Stage 1 committee, which stated:

[230] 'We recommend that the Minister brings forward amendments at Stage 2 for a statutory duty to consult with the business sector, work-based learning providers and student representatives when planning the local area curricula'.

11.40 a.m.

[231] The way in which this is phrased is in line with the committee's recommendation; it does not give the business sector the upper hand, but makes it an equal partner in the consultation with the student representatives and work-based learning providers. I want to emphasise that the Deputy Minister has already talked this morning about the importance of work-based learning providers being included. I hope that we would all agree that student representatives should, in the twenty-first century, be included—to ensure that their interests remain paramount. One of the driving motives behind this legislation is to make our young people more employable, and it is therefore unthinkable that one does not consult with the business sector as to skills for employment.

[232] It is not just the level of skills, it is the range of skills. It is about ensuring that we look forward and plan for the future, anticipating the needs of the education sector and employers. We are not just working on what they need now, but on what they will need in five years' time. We are not, after all, producing legislation that deals with theoretical aspects of higher learning; we are looking at skills, employment and the practical end of education, with a strong emphasis on improving vocational learning. You cannot do that unless you make the business sector the crux of this. It should not just be FE colleges and schools that get together; we should also deal with the work-based learning providers that are crucial to all this, and consult the young people concerned, so that their interests are kept at the forefront of all this.

[233] **Jonathan Morgan:** I support amendments 68 and 69. I would like the Deputy Minister, in his response, to outline the consideration that he gave to recommendation 15. The recommendation was that the Deputy Minister bring forward amendments at Stage 2 establishing a duty to consult the business sector. Clearly, when we provide a framework for the planning of the local curriculum, it is at that point that the consultation with the business

sector would be most relevant. I would like the Deputy Minister to explain what consideration, if any, he gave to recommendation 15, and why he has decided not to follow the recommendation of the committee, which was strongly in support of consulting with the business sector.

[234] Those of us with fairly long memories, and who were here for the first Assembly, will remember that the Labour Government introduced a concept of community consortia for education and training. I am not entirely sure what happened to CCETs, but the ethos was to involve a variety of partners, and so part of this Measure is similar to what we considered 10 years ago. The ethos around CCETs was not just to involve education establishments in planning, but to involve the business sector as well.

[235] The Government of the time and, in fact, the current Government, have relied heavily on the attitude and opinion of the business sector, using those attitudes to back up the rationale for reforming the education framework. The business sector is always telling us that we do not have people with the right skills or young people with basic skills and the other skills such as team-working and so on. I will not rehearse all of the arguments, but, rightly, this Government has relied upon the involvement and attitude of the business sector. Therefore, it is consistent, not only with the decision that was taken by the committee at Stage 1, but with the attitude that the Government—and particularly the Labour Party in Government in Wales—has taken over the past 10 years, which has been to involve the business sector. Therefore, I think that it is absolutely right that the Measure be amended in the way that is being suggested.

[236] The duty to consult young people—students—is vital. Again, it was the Government, led by the Labour Party, that introduced school councils and instructed local authorities to ensure that schools were taking account of what school councils felt about the delivery of services for pupils in those schools. In fact, many of those schools have done a huge amount of work to ensure that school councils advise not just on the fabric of the school buildings, but on the delivery of the school curriculum. It was this Government that ensured that pupils would be involved at some stage with certain aspects of the delivery of the school service. Obviously, this goes further in ensuring that there are consultation arrangements for the planning of the curriculum.

[237] It was also this Government that introduced young people's partnerships; I think that it was Jane Davidson, when she was the Minister with responsibility for education, who introduced the concept of young people's partnerships within local authorities to ensure that young people's services, as planned for by a local authority, take into account what young people think. I remember that at the time when we debated this, I raised the concern that these young people's partnerships would be stuffed merely with the great and the good—the chief fire officer, the chief executive of the local authority, the chief schools officer and so on—thinking that it would be every middle-aged, middle-class man who was being paid a fortune in his relevant authority who would be sitting there deciding what young people needed, without much in the way of involvement from young people themselves. However, the framework was put in place. Therefore, Minister, your administration, on a variety of occasions, in relation to the involvement of both business and young people, has said that it thinks that such involvement is valuable.

[238] Therefore, I think that the amendments tabled by Jenny reflect not only the report's nature and recommendations, but back up what the Government has done over the course of the past 10 years. Those of us who were here in 1999 can say that with a degree of authority. I sat on the post-16 education committee of the time, which considered the role of these community consortia and what they would be expected to do. Therefore, that ethos and that rationale were there from the outset, which, I think, backs this up.

[239] **Sandy Mewies:** A great deal of thought has gone into amendments 68 and 69, but I do not think that they will produce a workable result. In some ways, they are too general, are they not? Whom in the business sector must be consulted? I take the point entirely that you must consult with students and pupils of any school as to what goes on, but these amendments make no allowances for the fact that the business sector is very wide. Jenny pointed out that she has years of experience in schools, and I can say that I have worked in schools throughout the country in my time—I have worked in schools in England and Wales—and seen how co-operation is achieved. However, I do not think that these amendments would make the planning any more effective than has been the case to date, again, because of the way in which they are worded, and yet I accept that a great deal of thought has been given to the wording.

11.50 a.m.

[240] **John Griffiths:** May I say first of all that the ethos that has been described as the best way to take forward education and training policy, involving a wide range of interested groups and stakeholders, must be and is absolutely right. That is something that runs through Welsh Assembly Government policy and will continue as such. So, I understand the legitimate and valid concerns that have been expressed, but it comes down to what the practical effect of the amendment, if passed, would be; what the existing practice and policy is; and what the practice and policy under the proposed Measure without this amendment would be. Considering all of that, I am confident that, without this amendment, the proposed Measure and other policy and practice in Wales will abide by this ethos of involvement and engagement. I do not believe that the amendment properly considers developments of this policy up to this stage. The 14-19 learning pathways policy has been developed with the involvement of a whole range of stakeholders, and the 14-19 networks have a wide and broad representation, including representatives of work-based learning providers and learners themselves.

[241] The statutory guidance that will be issued under sections 11 and 29 on planning the local curriculum will specify that due attention should be paid to available labour market intelligence and local and regional priorities when planning local area curricula, and that is to ensure that business needs are recognised. We believe that that is the appropriate approach, as it does not place an additional burden on the business sector, but it ensures that the needs and future priorities of the economy, and the business sector in particular, are reflected. That labour market intelligence also provides an unbiased basis for decision taking in relation to planning the local curriculum, and that is a valuable characteristic.

[242] On student involvement, we know that, for a local curriculum to be viable, it must be attractive to young people, and current guidance stipulates that young people's views should be represented on the 14-19 networks. It is standard practice for learner demand to be a key determinant in the formation of the curriculum. We very much intend for statutory guidance to continue to reflect that. That guidance for 14-19 network memberships states that there should be a representative of the children and young people's partnership, formerly the young people's partnership, on that 14-19 network. If you look at everything in the round, it is clear that the legitimate concerns that Members have expressed about this amendment have been reflected in policy and practice to date, and that will continue to be the case in the future.

[243] **Jenny Randerson:** I will make a few comments on each of the contributions. Jonathan wisely reminded us about the community consortia for education and training, school councils, the young people's partnerships and so on, the establishment of which reflected the desire to create a consensus, a broad involvement, and a broad church. They all reflect the previous work of the Labour Government, and the Deputy Minister has echoed the intentions behind those in his comments.

[244] The Deputy Minister referred to statutory guidance and said that it refers to labour market intelligence. With all due respect, Minister, labour market intelligence is different from consultation with the business sector. Labour market intelligence refers to some documents; it does not deal with consultation with real people. It is not the same as getting the positive support of the business sector by getting them involved. I can assure you that they do not regard it as a chore or a burden; they regard it as being crucial to the credibility of the courses concerned. We are not asking for them to dominate, but for them to be consulted. That is all. We ask for the same to be taken into account for the work-based learning providers and for the student representatives.

[245] Guidance changes. It is one thing to have guidance on something, but it is better to have a principle enshrined in legislation. Minister, you referred to the young people's partnership representative and the provisions that are already in existence for that. However, there is no guarantee that that representative will be a young person or a student. There is no guarantee that that person will be within this age range. It does not fulfil the same criteria at all. I urge you, despite your words here this morning, to take a more positive approach to the general principles outlined in this amendment, which, after all, exactly reflect recommendation 15 of the committee's report.

[246] **Val Lloyd:** Do you wish to move to a vote?

[247] **Jenny Randerson:** Yes.

[248] **Val Lloyd:** The question is that amendment 68 be agreed to. I call for a vote.

Gwelliant 68: O blaid 2, Ymatal 0, Yn erbyn 2.

Amendment 68: For 2, Abstain 0, Against 2.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Morgan, Jonathan
Randerson, Jenny

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Cuthbert, Jeff
Mewies, Sandy

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei phleidlais fwrw yn unol â Rheol Sefydlog Rhif 10.33.

As there was an equality of votes, the Chair used her casting vote in accordance with Standing Order No. 10.33.

Gwrthodwyd gwelliant 68.

Amendment 68 defeated.

[249] **Val Lloyd:** I am conscious of the time. I notice that we have just finished a section, so would the committee agree that, as we have had a long morning, it might be a convenient place to stop? I see that you agree. Thank you very much.

[250] That concludes today's consideration of amendments. For the record, sections 1 to 5 and section 7 are deemed agreed.

[251] Our next meeting will be held next Wednesday. In order for further amendments to be considered during the meeting next week, the deadline for proposing amendments is 5.30 p.m. today. I thank you all for your consideration in the meeting. I declare the meeting closed.

Daeth y cyfarfod i ben am 11.58 a.m.

The meeting ended at 11.58 a.m.

